

## Chapter 22 - EMERGENCY MANAGEMENT<sup>[1]</sup>

Footnotes:

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**Cross reference**— Administration, ch. 2; emergency services, ch. 26.

### ARTICLE I. - IN GENERAL

Secs. 22-1—22-30. - Reserved.

### ARTICLE II. - CIVIL EMERGENCY PREPAREDNESS<sup>[2]</sup>

Footnotes:

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**State Law reference**— Civil emergency preparedness, NMSA 1978, § 12-10-1 et seq.

Sec. 22-31. - Purpose of article.

The purpose of the Department of Emergency Management ~~office of civil emergency preparedness~~ is to coordinate the effort of all county ~~agencies~~ Departments, county employees, private citizens and ~~all other nongovernmental private~~ agencies in the planning, training and exercise preparation of emergency operation contingency plans for any emergency which endangers the lives and property of the ~~citizens~~ residents of the county. It shall be the duty of such ~~organization~~ Department to coordinate and develop contingency plans for the effective employment of county resources to protect the lives and health of the citizens of the county, and the private and public property therein, from the effects of natural, technological, or man-caused disasters, including acts of war; and to coordinate the implementation of such contingency plans during any period of emergency.

(Ord. No. 268, § II)

Sec. 22-32. - Creation.

There is hereby established under the ~~executive governing body branch of the government~~ of the county, in accordance with NMSA 1978, § 12-10-5, ~~an office of civil emergency preparedness~~ Department of Emergency Management which shall consist of:

- (1) *Coordinator.* A ~~coordinator~~ Director for the Department of Emergency Management ~~of the office of civil emergency preparedness~~ who shall be appointed by the county manager with the concurrence of the board of county commissioners, and subject to the approval of the state director of homeland security and emergency management.
- (2) *Staff.* Such additional professional, personnel and administrative staff as may be required to effectively carry out the ~~civil emergency preparedness~~ Emergency Management program.
- (3) *~~Officers and employees~~ Volunteers.* ~~All county officers and employees, together with those volunteer forces enrolled to aid the~~ Director of the Department of Emergency Management ~~office of civil emergency preparedness~~ during periods of emergency, shall be considered as part of the ~~office of civil emergency preparedness~~ Department of Emergency Management of the county.

(Ord. No. 268, § I)

Sec. 22-33. - Reporting procedure.

- (a) The ~~Director of the office~~ Department of Emergency Management ~~of civil emergency preparedness coordinator~~ shall be the executive head of the ~~office~~ Department and shall be responsible to the county manager for the organization, administration, and operation of the ~~civil emergency preparedness~~ Emergency Management program for the county. The ~~coordinator~~ Director of Emergency Management shall, acting for the county manager, coordinate the county emergency preparedness programs with programs of like kind placed into effect by the City of Albuquerque, private citizens, and ~~all nongovernmental~~ private agencies, and shall act as a liaison and fully cooperate with the emergency preparedness agencies of the federal government, the state, and any other political subdivision therein.
- (b) The ~~coordinator~~ Director of Emergency Management shall have the direct responsibility of carrying out the all hazard emergency management program for the County. This may include ~~all statutory authority to act for the government of the county in all matters pertaining to~~ emergency planning, preparedness, mitigation, response, and recovery, including the authority to spend such county funds as may be appropriated for emergency preparedness purposes. He/She shall develop an organizational structure for the Department of Emergency Management, ~~civil emergency preparedness department,~~ subject to the approval of the county board of commissioners, and he/she is hereby authorized to appoint individuals to the positions established within the department according to the rules of employment defined by the county personnel code.

(Ord. No. 268, § III)

Sec. 22-34. - Annual budget proposal; obligation of funds.

- (a) The ~~coordinator~~ Director of Emergency Management shall prepare and submit to the county manager an annual proposed budget for the ~~office of civil emergency preparedness~~ Department of Emergency Management expenditures.
- (b) Civil emergency preparedness funds may be obligated by the ~~coordinator~~ Director of Emergency Management only in the amount as lawfully appropriated and for the purposes authorized by the board of county commissioners.

(Ord. No. 268, § IV)

Secs. 22-35—22-40. - Reserved.

### ARTICLE III. - EMERGENCY MANAGEMENT POWERS

Sec. 22-41. - Title and purpose.

This article may be cited as the "Emergency Management Powers." It is the intent of this article to protect the health and safety of persons and property during an emergency or disaster resulting from manmade or natural causes

(Ord. No. 2020-7, § 1, 3-17-20)

Sec. 22-42. - Definitions.

*Civil emergency.*

- (1) Any use of force or violence, or any threat to use force or violence, if accompanied by the immediate power of execution, which threatens to result in acts described in subsection (4) below by three or more persons acting together, and without authority of law, which cannot be controlled or stopped under existing conditions and authority is a riot.
- (2) Unlawful assembly consisting of three or more persons assembling together with intent to do any unlawful act described in subsection (4) below with force or violence against the person or property of another, and who make any overt act to carry out such unlawful purpose, or who do a lawful act in an unlawful, violent or tumultuous manner, which cannot be controlled or stopped under existing conditions or authority.
- (3) A natural disaster or human-caused calamity, including but not limited to flood, conflagration, cyclone, tornado, earthquake, technological disruption, cyberattack, or explosion occurring within or affecting property within the unincorporated limits of the county, which endangers life and property to such an extent that extraordinary measures must be taken to protect the public health, safety, and welfare.
- (4) An actual or eminent outbreak, or reasonable threat of an actual or eminent outbreak, of any infectious disease that presents an unusual threat to the health or safety of the residents of the county, or threatens to unreasonably strain the medical or emergency service resources available in the county.
- (5) Unlawful activities, such as looting, arson, fire bombing, sniping, interference with emergency vehicles, widespread criminal damage to property, which in the opinion of the county manager, based upon consultation with the sheriff, cannot be controlled nor stopped under existing conditions and authority without unduly further endangering life or property.

*County.* The County of Bernalillo.

*County manager.* The county manager of the County of Bernalillo or her designee.

*Curfew.* That period of time as declared by the county manager during which no person or persons shall be upon the public streets, sidewalks, grounds or semi-public property either on foot or in vehicles of any type within the county, except however, that persons authorized by the county manager by administrative order shall not be subject to the curfew.

(Ord. No. 2020-7, § 2, 3-17-20)

Sec. 22-43. - County manager proclamation; emergency powers.

Whenever the county manager shall, after consultation with ~~D~~director ~~offer~~ ~~E~~emergency ~~m~~Management, find that a civil emergency exists as defined herein and that invocation of the extraordinary powers conferred herein is necessary to ensure or to restore the public peace, or to help preserve and maintain the health, safety, and welfare of the general public, she shall forthwith proclaim in writing the existence of such emergency. Upon such determination, the county manager is hereby empowered to invoke any or all of the following provisions:

- (1) To declare hours of curfew upon all or any portion of the county thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public or semi-public places. The curfew shall be declared by proclamation which shall be delivered to the sheriff, who shall see that copies thereof are delivered to all news media within the county and who shall also use public address systems to notify the public of said proclamation and curfew hours and warn the public that violation of said curfew constitutes a misdemeanor and violators are subject to arrest.
- (2) To close any and all streets, alleys, and other public ways in the County to the public whenever it is necessary for the preservation of life and property and the maintenance of law and order;
- (3) Order the closing of places of mass assembly, including theaters, clubs, and performance and athletic venues.

- (4) Order the closing of places of institutional childcare or education such as daycare, preschools, and private educational institutions.
- (5) Order that places of private employment take reasonable measures (as determined by each employer) to minimize any exposures to unusual infectious diseases or health risks to employees and customers by, for example, additional cleaning and sanitization protocols, partial or full closures, or authorizing non-essential employees to work from home or take leave, or deploying social distancing protocols.
- (6) Cancel county sponsored events and gatherings, cancel or impose limitations or special protocols for the provision of county services and the use of county facilities, and authorize the redistribution or rededication of county resources and budgetary appropriations as necessary to help address or combat the proclaimed emergency.
- (7) Enter into any agreements authorizing the use of county owned property by third parties, or agreements for the county's use of non-county owned property, outside the usual requirements for county real property transactions as necessary to help address or combat the proclaimed emergency.
- (8) Issue such other order as are imminently necessary for the protection of life and property.

(Ord. No. 2020-7, § 3, 3-17-20)

Sec. 22-44. - Publication of orders.

The county manager shall immediately deliver a copy of the declaration and all orders issued pursuant to this article to the sheriff's office, fire department, all major media outlets serving the county, and the chair of the county commission. The county manager shall also post a copy of all such orders to the county's website, distribute them through the county's primary social media accounts, and take such additional reasonable measures necessary to inform impacted persons and business of the emergency declaration and associated emergency orders.

(Ord. No. 2020-7, § 4, 3-17-20)

Sec. 22-45. - Duration and extension of emergency proclamation.

Any emergency proclaimed in accordance with the provisions of this article shall take effect immediately, and terminate upon the date set forth by the proclamation, however, any emergency proclamation may be sooner terminated by resolution of the county commission or may be extended by resolution of the commission as originally proclaimed with amendments for any such additional periods of time as deemed necessary by the county commission up to a maximum of 90 days per proclamation.

At the administrative meeting immediately following any declaration or order made by the county manager pursuant to this article, the board of county commissioners shall make those declarations or orders part of the meeting minutes by formally acknowledging the declarations or orders.

(Ord. No. 2020-7, § 5, 3-17-20)

Sec. 22-46. - Failure to obey.

Every person remaining present at the place of any riot or unlawful assembly after they have been ordered to disperse by the police or any other lawful authority, or who fails to comply with an order or directive set forth pursuant to this article, except those public officers and persons assisting them in attempting to disperse the same or comply with an order or directive or administer emergency services, shall be deemed guilty of a violation of this article.

(Ord. No. 2020-7, § 6, 3-17-20)

Sec. 22-47. - Non limitation or interference with other authority.

Nothing herein is intended to limit the power or authority of the county manager with respect to control and management of county resources and facilities that generally exists even outside the existence of a civil emergency. However, notwithstanding the emergency powers authorized herein, closures or limitations for any office or place of gathering or meeting necessary for carrying out the business of the county commission may occur only by order of the chair of the county commission.

(Ord. No. 2020-7, § 7, 3-17-20)

Sec. 22-48. - Severability.

If any section, paragraph, sentence, clause, word or phrase of this article is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article. The commission hereby declares that it would have passed this article and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

(Ord. No. 2020-7, § 8, 3-17-20)

Sec. 22-49. - Effective date.

This article is passed and approved as an emergency measure, pursuant to NMSA 1978, § 4-37-7, and takes effect immediately upon publication by title and general summary.

(Ord. No. 2020-7, § 9, 3-17-20)